



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE
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Ann Jennings
Secretary of Natural and Historic Resources

David K. Paylor
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Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
NUNAA, LLC
FOR
Magic Auto Salvage
VPDES Permit Reg. No. VAR052436**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and NUNAA, LLC, regarding the Magic Auto Salvage facility, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means the discharge of a pollutant.
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "DMR" means Discharge Monitoring Report.
8. "Facility" or "Site" means the Magic Auto Salvage facility, located at 8940 Alsop Town Road, Spotsylvania, Virginia 22553, from which discharges of stormwater associated with industrial activity occur.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
10. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
11. "NUNAA, LLC" means NUNAA, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. NUNAA, LLC is a "person" within the meaning of Va. Code § 62.1-44.3.
12. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
13. "Permit" means VPDES General Permit No. VAR05, which was issued under the State Water Control Law and the Regulation on July 1, 2019, and which expires on June 30, 2024. NUNAA, LLC, applied for registration under the Permit and was issued Registration No. VAR052436 on August 27, 2019.
14. "Registration statement" means a registration statement for coverage under a storm water general permit.
15. "Regulation" means "The Virginia Pollutant Discharge Elimination System General Permit for Discharges of Stormwater Associated with Industrial Activity," 9 VAC 25-151-10, *et seq.*

16. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
17. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
18. "SWPPP" means Stormwater Pollution Prevention Plan.
19. "Va. Code" means the Code of Virginia (1950), as amended.
20. "VAC" means the Virginia Administrative Code.
21. "VPDES" means Virginia Pollutant Discharge Elimination System.
22. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. NUNAA, LLC, owns and operates the Facility located at 8940 Alsop Town Road, Spotsylvania, Virginia, which discharges stormwater associated with industrial activity.
2. The Permit allows NUNAA, LLC, to discharge stormwater associated with industrial activity from the Facility's two outfalls (#001 and #002) to an unnamed tributary of the Po River, in strict compliance with the terms and conditions of the Permit.
3. The Po River is located in the York River Basin. The section of the Po River closest to the Facility has been neither monitored nor assessed, though downstream of the Facility it is listed as impaired for bacteria in DEQ's 305(b) report. Downstream of the Po River, the Mattaponi River is listed as impaired for PCBs, over 50 miles from the facility.
4. DEQ staff reviewed the compliance schedule and submissions for the Facility, and noted the following violations:
 - a. Missing Benchmark DMRs for Outfalls 001 and 002 for the July – December 2019 and January – June 2020 monitoring periods. Additionally, NUNAA, LLC, submitted the July – December 2020 monitoring period DMR late.
 - i. Part I.A.1.b of the Permit states, "Benchmark monitoring of discharges associated with specific industrial activities. Table 70-1 identifies the specific industrial sectors subject to the benchmark monitoring requirements of this permit and the industry-specific pollutants of concern... (1) Benchmark monitoring shall be performed for all benchmark parameters specified for the industrial sector or sectors applicable to a facility's discharge. Monitoring shall be performed at least

once during each of the first four, and potentially all, monitoring periods after coverage under the permit begins. Monitoring commences with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2.”

- ii. Part I.A.2.d.(2) of the Permit states, “Benchmark monitoring, effluent limitation monitoring, and impaired waters monitoring (for waters both with and without an approved TMDL). Monitoring shall be conducted at least once in each of the following semiannual periods each year of permit coverage: January through June, and July through December.”
 - iii. Part I.A.5.a of the Permit states, “Reporting to the department. The permittee shall follow the reporting requirements and deadlines below for the types of monitoring that apply to the facility: Semiannual Monitoring. Submit the results by January 10 and by July 10...”
- b. Missing Chesapeake Bay TMDL DMRs for Outfalls 001 and 002 for the July – December 2019 and January – June 2020 monitoring periods. Additionally, NUNAA, LLC submitted the July – December 2020 monitoring period DMR late.
- i. Part I.B.8.a of the Permit states, “Owners of facilities in the Chesapeake Bay watershed shall monitor their discharges for total suspended solids (TSS), total nitrogen (TN), and total phosphorus (TP) to characterize the contributions from their facility’s specific industrial sector for these parameters. Total nitrogen is the sum of total Kjeldahl nitrogen (TKN) and nitrite + nitrate and shall be derived from the results of those tests. After the facility is granted coverage under the permit, samples shall be collected during each of the first four monitoring periods (i.e., the first two years of permit coverage). Monitoring periods are specified in Part I A 2. Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 5 and Part II C, and retained in accordance with Part II B.”
- c. DMRs are required to be submitted via the eDMR system. Enrollment was due by January 10, 2020, and was not received until after the deadline.
- i. Part II.C.2 of the Permit states, “Monitoring results shall be reported in the department’s electronic discharge monitoring report (e-DMR) system. All reports and forms submitted in compliance with this permit shall be submitted electronically by the permittee in accordance with 9VAC25-31-1020.”
- d. Warning letters issued on June 22, 2020, September 29, 2020, and March 11, 2021, were not responded to by NUNAA, LLC, within the requested 30 days. A response was received on August 27, 2021.

- i. Part II.D of the Permit states, “Duty to Provide Information. The permittee shall furnish to the Department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from the discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon request, copies of records required to be kept by this permit.”
5. NRO issued Warning Letters for these violations noted above as follows: WL No. W2020-06-N-1029, issued June 22, 2020; WL No. W2020-09-N-1014, issued September 29, 2020; and WL No. W2021-03-N-1007, issued March 11, 2021.
6. An environmental contractor retained by NUNAA, LLC, responded to the Warning Letters on behalf of NUNAA, LLC, on August 27, 2021, and indicated that NUNAA, LLC was unaware of its requirement to sign up for the eDMR submission portal, and therefore failed to complete and submit DMRs, or submit them on time, for the periods indicated in the warning letters.
7. DEQ conducted a technical inspection of the Facility on August 13, 2021, and identified the following compliance deficiencies:
 - a. No corrective action plan or SWPPP modification for benchmark exceedances of Total Recoverable Aluminum and Iron sampled during the July – December 2020 monitoring period at Outfall 001.
 - i. Part I.A.6.(a) of the Permit states in part, “Data exceeding benchmark concentration values. (1) If the benchmark monitoring result exceeds the benchmark concentration value for that parameter, the permittee shall review the SWPPP and modify it as necessary to address any deficiencies that caused the exceedance. Revisions to the SWPPP shall be completed within 60 days after an exceedance is discovered.”
 - ii. Part III.E.3 of the Permit states, “Required modifications. The permittee shall modify the SWPPP whenever necessary to address all corrective actions required by Part I A 6 a (Data exceeding benchmark concentration values) or Part I A 6 b (Corrective actions). Changes to the SWPPP shall be made in accordance with the corrective action deadlines in Part I A 6 a and Part I A 6 b, and shall be signed and dated in accordance with Part III E 1.”

- b. Quarterly visual examinations were not conducted for Q3 2019 through Q2 2021.
 - i. Part I.A.1.a.(1) of the Permit states, “The permittee shall perform and document a quarterly visual examination of a stormwater discharge associated with industrial activity from each outfall, except discharges exempted in Part I A 3 or Part I A 4. The examinations shall be made at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December. The visual examination shall be made during normal working hours, where practicable, and when considerations for safety and feasibility allow. If no storm event resulted in runoff from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided that documentation is included with the monitoring records indicating that no runoff occurred. The documentation shall be signed and certified in accordance with Part II K of this permit.”
- c. Quarterly routine facility inspections were not conducted for Q3 2019 through Q2 2021.
 - i. Part III.B.5 of the Permit states in part, “Routine facility inspections. Personnel who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility and who can also evaluate the effectiveness of control measures shall regularly inspect all areas of the facility where industrial materials or activities are exposed to stormwater, areas where spills or leaks have occurred in the past three years, discharge points, and control measures. At least one member of the pollution prevention team shall participate in the routine facility inspections...”
- d. Site inspection found trash, unorganized tires, large petroleum staining on ground, vehicles actively leaking petroleum fluids, and multiple vehicle parts exposed to stormwater. NUNAA, LLC, had not implemented stormwater control measures to prevent or control pollutants in stormwater discharges from the Facility, or SWPPP housekeeping measures, for the Facility.
 - i. Part III.B.4.b.(1) of the Permit states in part, “Good housekeeping. The permittee shall keep clean all exposed areas of the facility that are potential sources of pollutants to stormwater discharges”
 - ii. Part III.B.4.b.(2) of the Permit states in part, “Eliminating and minimizing exposure. To the extent practicable, manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) shall be located inside, or protected by a storm-resistant covering to prevent exposure to rain, snow, snowmelt, and runoff.”

- e. Annual outfall evaluations for unauthorized discharges had not been conducted for 2019 or 2020.
 - i. Part III.D.2.a of the Permit states in part, “Annual outfall evaluation for unauthorized discharges. a. The SWPPP shall include documentation that all stormwater outfalls associated with industrial activity have been evaluated annually for the presence of unauthorized discharges...”
 - f. The SWPPP was unsigned.
 - i. Part III.E.1 of the Permit states in part, “Signature and location. The SWPPP, including revisions to the SWPPP to document any corrective actions taken as required by Part I A 6, shall be signed in accordance with Part II K, dated, and retained on-site at the facility covered by this permit in accordance with Part II B 2...”
 - g. Fluids observed in “processed” vehicles, and those selected to be dismantled/processed.
 - i. Part IV.B.1 of the Permit states, “Spill and leak prevention procedures. All vehicles that are intended to be dismantled shall be properly drained of all fluids prior to being dismantled or crushed, or other equivalent means shall be taken to prevent leaks or spills of fluids upon arrival at the site, or as soon thereafter as feasible. All drained fluids shall be managed to minimize leaks or spills..”
 - h. Ground in vehicle storage area near Outfall 001, and along the roadway to this area, was actively eroding, and had no erosion/sediment controls in place.
 - i. Part III.B.4.b.(7) of the Permit states, “Sediment and erosion control. The SWPPP shall identify areas at the facility that, due to topography, land disturbance (e.g., construction, landscaping, site grading), or other factors, have a potential for soil erosion. The permittee shall identify and implement structural, vegetative, and stabilization control measures to prevent or control on-site and off-site erosion and sedimentation. Flow velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel if the flows would otherwise create erosive conditions.”
8. NRO issued a Notice of Violation for these violations noted above: NOV No. W2021-08-N-0011, issued September 7, 2021.

9. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances
10. The Regulation, at 9 VAC 25-151-70, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
11. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
12. The Department has issued coverage under no permits or certificates to NUNAA, LLC, other than under VPDES Permit No. VAR05.
13. The unnamed tributary of the Po River is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
14. Based on the results of the August 13, 2021, inspection, and the documentation submitted on August 27, 2021, the Board concludes that NUNAA, LLC, has violated the Permit, the Regulation, and Va. Code, as described in paragraphs C(1) through C(13), above.
15. In order for NUNAA, LLC to return to compliance, DEQ staff and NUNAA, LLC, have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders NUNAA, LLC, and NUNAA, LLC, agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$13,070 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
March 31, 2022	\$6,535 or balance
June 30, 2022	\$6,535 or balance

3. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by NUNAA, LLC. Within 15 days of receipt of such letter, NUNAA, LLC shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late

payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.

All payments shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

NUNAA, LLC, shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, NUNAA, LLC, shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of NUNAA, LLC, for good cause shown by NUNAA, LLC, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, NUNAA, LLC, admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. NUNAA, LLC, consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. NUNAA, LLC, declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by NUNAA, LLC, to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. NUNAA, LLC, shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. NUNAA, LLC, shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. NUNAA, LLC, shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.


Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and NUNAA, LLC. Nevertheless, NUNAA, LLC, agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after NUNAA, LLC, has completed all of the requirements of the Order;

- b. NUNAA, LLC, petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to NUNAA, LLC.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve NUNAA, LLC, from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by NUNAA, LLC, and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of NUNAA, LLC, certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind NUNAA, LLC, to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of NUNAA, LLC.
- 14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
- 15. By its signature below, NUNAA, LLC, voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 21 day of March, 20 22.


Thomas A. Faha, Regional Director
Department of Environmental Quality

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NUNAA, LLC voluntarily agrees to the issuance of this Order.

Date: 1-20-22 By: MAGED ABDALLA, CEO
(Person) (Title)
NUNAA, LLC

Commonwealth of Virginia
City/County of Stafford

The foregoing document was signed and acknowledged before me this 20th day of
January, 20 22, by Maged Abdalla who is
the CEO of NUNAA, LLC, on behalf of the company.

[Signature]
Notary Public

7789983
Registration No.

My commission expires: 05/31/2022

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. **NUNAA, LLC shall complete the following for the Facility:**

- a. Complete the Chesapeake Bay TMDL (CB-TMDL) monitoring required by Part I.B.8.a of the Permit by performing the monitoring quarterly, and submitting discharge monitoring reports on a quarterly basis for the three quarters following execution of this Order. These DMRs shall be submitted within 10 days of the end of the monitored quarter, in paper form, to the NRO VPDES Compliance Auditor at 13901 Crown Court, Woodbridge, VA 22193.
- b. Upon completion of Appendix A Item 1.a, the completed CB-TMDL calculations required by Permit Part I.B.8 and, if necessary, a CB-TMDL action plan meeting the requirements of Permit Part I.B.8.f shall be submitted to NRO no later than 90 days following completion of the final CB-TMDL monitoring period (e.g., if the final CB-TMDL monitoring period is October 1 – December 31, 2022, the calculations and action plan would be due no later than March 31, 2023).
- c. Within 7 days of the execution of this order, submit a signed electronic copy of the Facility's SWPPP, including the corrective actions/plan to address Aluminum and Iron parameter benchmark exceedances.
- d. Submit a copy of the Facility's quarterly visual examination report for the two quarters following the execution of this Order. These reports shall be received no later than the 10th day of the month following the quarter, e.g., a visual examination report for the January – March quarterly period would be due no later than April 10th.
- e. Submit a copy of the Facility's quarterly routine facility inspection report for the two quarters following the execution of this Order. These reports shall be received no later than the 10th day of the month following the quarter, e.g., a routine facility inspection report for the January – March quarterly period would be due no later than April 10th.
- f. Submit a copy of the Facility's annual outfall evaluation report for the 2021 calendar year by January 10, 2022.
- g. Good-housekeeping and stormwater pollution control practices, including: cleanup of trash; organization of tires; cleanup of petroleum staining; drainage of fluids from vehicles on site; and minimization of vehicle part exposure to stormwater, shall be implemented within 60 days of the execution of this Order, and evidence in the form of photographs and work logs shall be documented and presented to DEQ within the 60 day period, and upon request.

- h. Within 60 days of the execution of this order, submit evidence in the form of photographs and work logs of the completion of erosion and sediment control practices along the road to, and encompassing, the vehicle storage area near Outfall 001.

2. **DEQ Contact**

Unless otherwise specified in this Order, NUNAA, LLC, shall submit all requirements of Appendix A of this Order to:

**Virginia Department of Environmental Quality
Northern Regional Office
Attn: Enforcement
13901 Crown Court
Woodbridge, VA 22193**